

RESOLUTION NO. 74758

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SAN JOSÉ, REPEALING RESOLUTIONS 74604, 74605 AND 74669, CANCELING PUBLIC HEARING, APPROVING BOUNDARY MAP FOR CONVENTION CENTER FACILITIES DISTRICT NO. 2008-1, AND RATIFYING ITS RECORDATION.

WHEREAS, the City of San José (the "City") is a municipal corporation and charter city duly organized and existing under a charter pursuant to which the City has the right and power to make and enforce all laws and regulations in respect to municipal affairs and certain other matters in accordance with and as more particularly provided in Sections 3, 5 and 7 of Article XI of the Constitution of the State of California and the Charter of the City; and

WHEREAS, the City Council (the "Council") of the City duly adopted its Resolution No. 74604 (the "Resolution of Intention") on September 30, 2008 wherein the Council declared its intention to and proposed to establish a convention center facilities district within the territory of the City under the authority of Chapter 14.32 (the "Chapter") of the San José Municipal Code and, as provided therein, under the provisions of the Mello-Roos Community Facilities Act of 1982 (Sections 53311 and following of the California Government Code) as they existed at the time of the adoption of the Chapter (the "Act"), and as modified by the Chapter, to be designated and known as "Convention Center Facilities District No. 2008-1, City of San José, County of Santa Clara, State of California" (the "Convention Center Facilities District"), to finance the acquisition, construction, reconstruction, replacement, rehabilitation and upgrade of the San José Convention Center (the "Facilities"); and

WHEREAS, Resolution No. 74604 also approved a boundary map for the Convention Center Facilities District (the "Boundary Map") and ordered it to be recorded in the Santa Clara County Recorder's Office; and

WHEREAS, the Boundary Map was recorded on November 4, 2008 in the Book of Maps of Assessment and Community Facilities Districts maintained by the County Recorder of the County of Santa Clara in Book 44 at Pages 32-46, as Instrument Number 20037072; and

WHEREAS, the Council also adopted Resolution No. 74605 (the "Resolution to Incur Bonded Indebtedness") on September 30, 2008, declaring its intention to incur a bonded indebtedness in the principal amount of not to exceed \$750,000,000 to finance the Facilities; and

WHEREAS, the Council also adopted Resolution No. 74606 (the "Reimbursement Resolution") on September 30, 2008, declaring its intention to reimburse the City for certain expenditures for the Convention Center Facilities District incur a bonded indebtedness

WHEREAS, both the Resolution of Intention and the Resolution to Incur Bonded Indebtedness fixed a time and place for a public protest hearing (the "Public Hearing") to be held by the Council to consider the establishment of the Convention Center Facilities District, the authorization of a special tax to be levied and collected within the Convention Center Facilities District (the "Special Tax"), the proposed rate, method of apportionment and manner of collection of the Special Tax; the Facilities proposed to be authorized to be paid for with the proceeds of the Special Tax collections, the establishment of an appropriations limit for the Convention Center Facilities District, the incurring of the proposed debt and to consider any other matters set forth in the Resolution of Intention and the Resolution to Incur Bonded Indebtedness; and

WHEREAS, pursuant to the Resolution of Intention and the Resolution to Incur Bonded Indebtedness, the Public Hearing was set by the Council for Tuesday, the 18th day of November, 2008, at the hour of 1:30 P.M., in the Council Chambers at San José City Hall, 200 East Santa Clara Street, Council Wing, 2nd Floor, San José, California, 95113; and

WHEREAS, the Council opened the Public Hearing on the date and at the time and place as scheduled, and then adopted its Resolution No. 74669 ("Resolution Continuing Public Hearing"), that continued the Public Hearing to January 13, 2009; and

WHEREAS, the Council has determined to re-examine various aspects of the proposals contained in the Resolution of Intention and the Resolution to Incur Bonded Indebtedness, to consider adopting resolutions to replace them, and to consider thereby setting new public hearings once the Council has completed its re-examination; and

WHEREAS, the Council therefore desires to cancel the Public Hearing currently scheduled to resume today; and

WHEREAS, the Council desires that the Boundary Map remain effective as recorded for the Convention Center Facilities District; and

WHEREAS, the Council desires that the Reimbursement Resolution remain effective for the Convention Center Facilities District; and

WHEREAS, the Council is fully advised in this matter;

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN JOSE THAT:

1. The City hereby specifically finds and declares that the actions authorized hereby constitute and are with respect to public affairs of the City and that the statements, findings and determinations of the City set forth above are true and correct.

2. The Resolution of Intention (Resolution No. 74604) is hereby repealed, and the Public Hearing called thereby is hereby cancelled.

3. The Resolution to Incur Bonded Indebtedness (Resolution No. 74605) is hereby repealed, and the Public Hearing called thereby is hereby cancelled.

4. The Resolution Continuing Public Hearing (Resolution No. 74669) is hereby repealed, and the Public Hearing continued thereby is hereby cancelled.

5. The boundaries of the territory proposed for inclusion in the Convention Center Facilities District are particularly described and shown on the Boundary Map entitled "Proposed Boundaries of Convention Center Facilities District No. 2008-1, City of San Jose, County of Santa Clara, State of California," copies of which are now on file in the office of the City Clerk and also recorded with the Santa Clara County Recorder. The Council hereby approves the Boundary Map; and reaffirms and ratifies the approval of the Boundary Map by Resolution 74604, the repeal of Resolution 74604 notwithstanding. The Council finds that the Boundary Map is in the form and contains the matters prescribed by section 3110 of the California Streets and Highways Code and ratifies the City Clerk's certification, on the face of the Boundary Map, that it was approved by this Council on September 30, 2008 by Resolution 74604, the repeal of Resolution 74604 notwithstanding. The City Council hereby ratifies the recordation of a copy of the Boundary Map with the Santa Clara County Recorder in accordance with section 3111 of the California Streets and Highways Code.

6. The Reimbursement Resolution (Resolution No. 74606) is reaffirmed and remains effective for the Convention Center Facilities District.

7. This Resolution shall take effect upon its adoption.

ADOPTED this 13th day of January, 2009, by the following vote:

AYES: CAMPOS, CHIRCO, CHU, CONSTANT, HERRERA,
KALRA, LICCARDO, NGUYEN, OLIVERIO, PYLE, REED.

NOES: NONE.

ABSENT: NONE.

DISQUALIFIED: NONE.

CHUCK REED
Mayor

ATTEST:

LEE PRICE, MMC
City Clerk

